

L.N. 83 of 2010**WASTE DISPOSAL (CLINICAL WASTE) (GENERAL) REGULATION****CONTENTS**

Section	Page
PART 1	
GENERAL	
1. Commencement	B681
2. Interpretation	B681
PART 2	
DISPOSAL AND DELIVERY OF CLINICAL WASTE	
3. Proper disposal of clinical waste	B683
4. Delivery of clinical waste by healthcare professional	B687
5. Delivery of clinical waste by licensed waste collector	B689
6. Director's power to require removal of clinical waste	B691
7. Precautions for public health or safety	B691
PART 3	
LICENCES AND AUTHORIZATIONS	
8. Circumstances under which waste disposal licence is to be granted	B693
9. Authorization for on-site collection point	B693
10. Collection, removal or disposal of clinical waste without licence	B697
11. Amendment, revocation or imposition of terms or conditions	B699

PART 4

MISCELLANEOUS

12.	Records of consignment, etc. to be kept	B699
13.	Director's power to require information	B701
14.	Offences in relation to incorrect or misleading information ...	B703
15.	Exemptions	B703
16.	Terms and conditions of licences and authorization not affected.....	B705
Schedule	Provisions relating to label on clinical waste container	B705

WASTE DISPOSAL (CLINICAL WASTE) (GENERAL) REGULATION

(Made by the Chief Executive in Council under section 33 of the Waste Disposal Ordinance (Cap. 354) after consultation with the Advisory Council on the Environment)

PART 1

GENERAL

1. Commencement

(1) This Regulation (except section 8) comes into operation on the day appointed for the commencement of sections 5, 6 and 20 of the Waste Disposal (Amendment) Ordinance 2006 (6 of 2006) or, if different days are appointed, the latest of those days.

(2) Section 8 comes into operation on the day appointed for the commencement of sections 14 and 20 of the Waste Disposal (Amendment) Ordinance 2006 (6 of 2006) or, if different days are appointed, the latest of those days.

2. Interpretation

In this Regulation—

“authorized waste collector” (獲授權廢物收集者) means a person who is authorized under section 10(1) to collect or remove clinical waste;

“collection point” (收集站) means—

(a) any land or premises authorized to be used by a licensed waste collector or authorized waste collector for the receipt of clinical waste, under a waste collection licence or an authorization granted under section 10(1); or

(b) any land or premises authorized to be used as an on-site collection point under section 9(1);

“healthcare professional” (醫護專業人士) means—

(a) a registered dentist within the meaning of the Dentists Registration Ordinance (Cap. 156);

(b) a registered medical practitioner within the meaning of the Medical Registration Ordinance (Cap. 161);

(c) a registered nurse or enrolled nurse within the meaning of the Nurses Registration Ordinance (Cap. 164);

(d) a registered veterinary surgeon within the meaning of the Veterinary Surgeons Registration Ordinance (Cap. 529); or

(e) a registered Chinese medicine practitioner or listed Chinese medicine practitioner within the meaning of the Chinese Medicine Ordinance (Cap. 549);

“licensed waste collector” (持牌廢物收集者) means a person who is permitted under a waste collection licence to provide services for the collection or removal of clinical waste;

“off-site reception point” (場外接收站) means any land or premises—

(a) that are not used for the purposes of any practice, establishment, research or laboratory practice referred to in the definition of “clinical waste” in section 2(1) of the Ordinance; and

(b) that are authorized, under a waste disposal licence or an authorization granted under section 10(3), to be used for the disposal of clinical waste that is produced elsewhere;

“reception point” (接收站) means any land or premises that are authorized, under a waste disposal licence or an authorization granted under section 10(3), to be used for the disposal of clinical waste;

“sharps container” (利器容器) means a container for clinical waste that consists of any substance, matter or thing belonging to Group 1 (Used or contaminated sharps) in Schedule 8 to the Ordinance;

“waste collection licence” (廢物收集牌照) means a licence granted under section 10 of the Ordinance in relation to clinical waste;

“waste disposal licence” (廢物處置牌照) means a licence granted under section 16 of the Ordinance in relation to clinical waste.

PART 2

DISPOSAL AND DELIVERY OF CLINICAL WASTE

3. Proper disposal of clinical waste

(1) A person who produces or causes to be produced any clinical waste, or who has possession or custody of any clinical waste, must dispose of it in a proper manner or cause or arrange for it to be disposed of in a proper manner.

(2) A person complies with subsection (1) in relation to clinical waste that the person produces or causes to be produced, or of which the person has possession or custody, at any land or premises only if—

(a) the person consigns the clinical waste to a licensed waste collector for delivery from the land or premises to a reception point;

- (b) the person, being a healthcare professional, delivers the clinical waste from the land or premises to a reception point or collection point;
 - (c) a healthcare professional, acting in his or her capacity as an employee of the person, delivers the clinical waste from the land or premises to a reception point or collection point;
 - (d) the person consigns the clinical waste to an authorized waste collector for removal from the land or premises;
 - (e) the person consigns the clinical waste to the collection authority that provides services for the collection and removal of clinical waste under section 9A of the Ordinance, or to a public officer authorized to provide those services under section 23A of the Ordinance, for removal from the land or premises; or
 - (f) if a waste disposal licence is in force in respect of the land or premises and the clinical waste may be disposed of at the land or premises in accordance with the licence, the person—
 - (i) disposes of the clinical waste at the land or premises in accordance with the licence; or
 - (ii) causes or arranges for the clinical waste to be disposed of at the land or premises in accordance with the licence.
- (3) Subsection (1) does not apply to—
- (a) a person who has possession or custody of any clinical waste in the person's capacity as—
 - (i) a licensed waste collector;
 - (ii) an authorized waste collector; or
 - (iii) the collection authority that provides services for the collection and removal of clinical waste under section 9A of the Ordinance, or a public officer authorized to provide those services under section 23A of the Ordinance;
 - (b) clinical waste at an off-site reception point; or
 - (c) clinical waste that is imported into, or is to be exported out of, Hong Kong under a permit issued under section 20A(3) or 20B(3) of the Ordinance.
- (4) A person charged with an offence under this section may rely on subsection (3) only if—
- (a) there is sufficient evidence to raise an issue that the person had possession or custody of the clinical waste in circumstances specified in subsection (3)(a) or the clinical waste fell within the description in subsection (3)(b) or (c); and
 - (b) the contrary is not proved by the prosecution beyond reasonable doubt.
- (5) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of \$200,000.

4. Delivery of clinical waste by healthcare professional

(1) A healthcare professional may deliver clinical waste to a reception point or collection point under section 3(2)(b) or (c) without a waste collection licence but any such delivery must comply with the requirements specified in subsection (2).

(2) The requirements are—

- (a) the clinical waste must not exceed 5 kg in weight on any one occasion;
- (b) the clinical waste must not consist of any substance, matter or thing belonging to Group 4 (Infectious materials) in Schedule 8 to the Ordinance;
- (c) the healthcare professional must not use, for the purpose of delivering the clinical waste, a means of transport other than a private car within the meaning of the Road Traffic Ordinance (Cap. 374);
- (d) the clinical waste must be delivered directly to a reception point or collection point within 24 hours after the clinical waste begins to be so delivered;
- (e) the clinical waste must not be left unattended while it is being delivered;
- (f) the clinical waste must be packed or stored—
 - (i) in the case of clinical waste consisting of any substance, matter or thing belonging to Group 1 (Used or contaminated sharps) in Schedule 8 to the Ordinance, in containers that are puncture-resistant, shatter-proof and leak-proof; and
 - (ii) in all other cases, in containers that are made of rigid material, impervious to moisture and leak-proof, and that will not rip, tear or burst under normal conditions of handling;
- (g) the containers referred to in paragraph (f) must each bear on the outside of the container a label of the dimensions specified in Part 1 of the Schedule, which label must contain the symbol specified in Part 2 of the Schedule;
- (h) the containers referred to in paragraph (f) must each be properly and securely packaged, closed and sealed to prevent spillage or leakage;
- (i) the healthcare professional must, in the course of delivering the clinical waste, carry—
 - (i) adequate and appropriate first aid equipment for use in the event the clinical waste causes injury to any person; and

- (ii) adequate and appropriate cleaning equipment for use in the event any clinical waste is spilled; and
- (j) if any clinical waste is spilled while it is being delivered, the healthcare professional must remove the spilled clinical waste and clean the area of the spillage by using the equipment specified in paragraph (i)(ii).

(3) If any requirement under subsection (2) is contravened in respect of a delivery, the healthcare professional commits an offence.

(4) If any requirement under subsection (2) is contravened in respect of a delivery and the healthcare professional was acting in his or her capacity as an employee of another person, that other person also commits an offence.

(5) A person who commits an offence under subsection (3) or (4) is liable on conviction to a fine at level 6.

(6) It is a defence to a charge under subsection (4) for the person charged to prove that the person took all reasonable measures and exercised all due diligence to avoid the commission of the offence.

5. Delivery of clinical waste by licensed waste collector

(1) Unless subsection (2) applies, a licensed waste collector who collects any clinical waste must, within 24 hours of collecting it, deliver the clinical waste to a reception point.

(2) The Director may give a direction in writing to a licensed waste collector requiring the licensed waste collector to deliver any clinical waste collected by the licensed waste collector to the reception point, and within the period, specified in the direction; and the licensed waste collector must deliver the clinical waste to that reception point within that period.

(3) A licensed waste collector who is unable to comply with subsection (1) or (2) must, as soon as reasonably practicable, inform the Director.

(4) A person who contravenes subsection (1), (2) or (3) commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

(5) In any proceedings for an offence under subsection (4) in respect of a contravention of subsection (1) or (2), it is a defence for the person charged to prove that—

- (a) the person took all reasonable measures and exercised all due diligence to avoid the commission of the offence;
- (b) the contravention was due to circumstances beyond the person's control; and
- (c) the person informed the Director as required by subsection (3).

6. Director's power to require removal of clinical waste

(1) If the Director is of the opinion that any clinical waste located on or in any land or premises is, or is likely to be, a danger to public health or safety, a source of pollution to the environment or a source of nuisance to the neighbouring area, the Director may, by notice in writing served on an owner or occupier of the land or premises, require the owner or occupier—

- (a) to remove the clinical waste or cause or arrange for it to be removed, within the period specified in the notice, to a particular facility or a facility of a particular class or description specified in the notice; and
 - (b) immediately after the removal, to establish to the satisfaction of the Director that the clinical waste has been removed in accordance with the notice.
- (2) The reference in subsection (1) to occupier includes—
- (a) in relation to clinical waste found in the common parts of a building within the meaning of the Building Management Ordinance (Cap. 344), any corporation registered under section 8 of that Ordinance for that building; and
 - (b) in relation to clinical waste found in those parts of any land or premises used in common by, or for providing common services to or common facilities for the occupiers of the land or premises, a person responsible for the management of the land or premises.

(3) A person who fails to comply with a requirement made under subsection (1) commits an offence and is liable on conviction to a fine of \$200,000 and to imprisonment for 6 months.

7. Precautions for public health or safety

(1) A person who stores, collects, removes, delivers, transports, receives, transfers, disposes of, imports, exports or otherwise handles clinical waste must take all such precautions as are necessary to prevent danger to public health or safety, pollution to the environment and nuisance to the neighbouring area.

(2) The duty imposed on a person under subsection (1) is independent of any other duty imposed on that person under any other provision of this Regulation.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of \$200,000 and to imprisonment for 6 months.

PART 3

LICENCES AND AUTHORIZATIONS

8. Circumstances under which waste disposal licence is to be granted

The Director must not grant a waste disposal licence under section 21(4) of the Ordinance in respect of the disposal of clinical waste unless the Director is satisfied that the land or premises in respect of which the licence is sought has a waste disposal facility that is capable of—

- (a) reducing the harmful effect of clinical waste on the environment by serving as a facility for the disposal of clinical waste at the land or premises where the clinical waste is produced and avoiding the movement of clinical waste; or
- (b) disposing of clinical waste in any other manner that is beneficial to the environment.

9. Authorization for on-site collection point

(1) The Director may, on application by a person referred to in subsection (2), by notice in writing served on the person, authorize the person to use the land or premises specified in the notice as an on-site collection point for any period and subject to any terms and conditions the Director considers appropriate and specifies in the notice.

(2) An application for the purposes of subsection (1) may only be made by a person who—

- (a) uses the land or premises for the purposes of any practice, establishment, research or laboratory practice referred to in the definition of “clinical waste” in section 2(1) of the Ordinance;
- (b) produces or causes to be produced clinical waste at the land or premises; and
- (c) is not a licensed waste collector.

(3) An authorization granted to a person under subsection (1) is an authorization for the person to do the following, without a waste collection licence—

- (a) use the land or premises specified in the notice for the receipt of clinical waste (whether delivered by or on behalf of the person or by or on behalf of another person); and
- (b) cause or arrange for the disposal of any clinical waste so received.

(4) Nothing in subsection (3)(b) affects the operation of section 3 or 4.

(5) Without limiting subsection (1) or section 11(1), a notice served under subsection (1)—

(a) may contain terms and conditions that require the person authorized under subsection (1) to do any or all of the following—

(i) ensure that clinical waste received at the land or premises specified in the notice—

(A) is limited to clinical waste of the nature specified in the notice; and

(B) does not exceed the quantity specified in the notice;

(ii) in respect of each consignment of clinical waste delivered to the land or premises specified in the notice, make a record containing—

(A) the names, addresses and telephone numbers of the person who produced or caused to be produced the clinical waste and the person by whom or on whose behalf the clinical waste is delivered to the land or premises;

(B) the date and time of the delivery of the clinical waste;

(C) the origin, nature and quantity of the clinical waste; and

(D) any other particulars relating to the clinical waste that are specified in the notice;

(iii) in respect of each consignment of clinical waste delivered by another person to the land or premises specified in the notice, provide that other person with a copy of the record made under subparagraph (ii);

(iv) keep the record made under subparagraph (ii) for a period specified in the notice, and produce it to the Director for inspection when so required; and

(b) may contain other terms and conditions relating to the matters set out in Schedule 10 to the Ordinance.

(6) The Director must not grant an authorization under subsection (1) if—

(a) the Director considers that the use of the land or premises in respect of which the authorization is sought for the receipt of clinical waste would be, or would be likely to be, a danger to public health or safety, a source of pollution to the environment or a source of nuisance to the neighbouring area; or

(b) the applicant is not the owner or lawful occupier of the land or premises.

(7) The Director may, by notice in writing served on a person to whom an authorization is granted under subsection (1), withdraw the authorization if—

- (a) any of the terms or conditions to which the authorization is subject is not complied with; or
- (b) the Director considers that further use of the land or premises in respect of which the authorization has been granted for the receipt of clinical waste would be, or would be likely to be, a danger to public health or safety, a source of pollution to the environment or a source of nuisance to the neighbouring area.

(8) A person to whom an authorization is granted under subsection (1) must comply with all the terms and conditions to which the authorization is subject.

(9) A person who contravenes subsection (8) commits an offence and is liable on conviction to a fine at level 5.

10. Collection, removal or disposal of clinical waste without licence

(1) If the Director is of the opinion that—

- (a) an emergency involving clinical waste has arisen; or
- (b) the circumstances are such that it would not be reasonably practicable to arrange for any clinical waste to be collected or removed by a licensed waste collector,

the Director may, by notice in writing served on a person, authorize the person to collect or remove clinical waste without a waste collection licence for any period and subject to any terms and conditions the Director considers appropriate and specifies in the notice.

(2) Without limiting subsection (1) or section 11(1), the Director may impose terms and conditions relating to the matters set out in Schedule 10 to the Ordinance.

(3) If the Director is of the opinion that—

- (a) an emergency involving clinical waste has arisen; or
- (b) the circumstances are such that it would not be reasonably practicable to use, for the disposal of any clinical waste, any land or premises in respect of which a waste disposal licence is in force,

the Director may, by notice in writing served on a person, authorize the person to use the land or premises specified in the notice for the disposal of clinical waste without a waste disposal licence for any period and subject to any terms and conditions the Director considers appropriate and specifies in the notice.

(4) Without limiting subsection (3) or section 11(1), the Director may impose terms and conditions relating to the matters set out in Schedule 11 to the Ordinance.

(5) A person to whom an authorization is granted under subsection (1) or (3) must comply with all the terms and conditions to which the authorization is subject.

(6) A person who contravenes subsection (5) commits an offence and is liable on conviction to a fine at level 5.

11. Amendment, revocation or imposition of terms or conditions

(1) The Director may amend or revoke any term or condition specified in an authorization granted under section 9 or 10(1) or (3), or impose any new term or condition on the authorization, if the Director is satisfied that it is appropriate to do so for the purposes of preventing danger to public health or safety, pollution to the environment or nuisance to the neighbouring area.

(2) In exercising the power under subsection (1), the Director must serve a notice in writing on the person to whom the authorization has been granted.

(3) If the Director amends or revokes any term or condition or imposes any new term or condition under subsection (1), the amendment, revocation or imposition takes effect at the time specified in the notice.

PART 4

MISCELLANEOUS

12. Records of consignment, etc. to be kept

(1) A person must keep records in accordance with this section in respect of clinical waste produced or caused to be produced by the person, or in the person's possession or custody, and must produce the records to the Director for inspection when so required.

(2) If the person consigns clinical waste to a licensed waste collector or authorized waste collector for delivery or removal, the person must, as soon as reasonably practicable, make a record of the consignment; and the record must include—

- (a) the date of consignment;
- (b) the name of the consignee;
- (c) the quantity of the clinical waste consigned; and
- (d) the address of the land or premises from which the clinical waste is delivered or removed.

- (3) If—
- (a) the person, being a healthcare professional, delivers clinical waste to a reception point or collection point; or
 - (b) a healthcare professional, acting in his or her capacity as an employee of the person, delivers clinical waste to a reception point or collection point,

the person must, as soon as reasonably practicable, make a record of the delivery.

- (4) A record made for the purposes of subsection (3) must include—

- (a) the date of delivery;
- (b) the name of the person delivering the clinical waste;
- (c) the address of the land or premises from which the clinical waste is delivered;
- (d) the name and address of the reception point or collection point to which the clinical waste is delivered; and
- (e) the quantity of the clinical waste delivered.

(5) The record of each consignment or delivery must be in the form determined by the Director.

(6) The record of each consignment or delivery must be kept for a period of 12 months after the consignment or delivery.

(7) To the extent that section 3(1) does not apply to a person or clinical waste by virtue of section 3(3), subsection (1) does not apply to that person or the clinical waste.

(8) A person who contravenes any requirement under this section commits an offence and is liable on conviction to a fine at level 6.

13. Director's power to require information

(1) The Director may require a person to furnish to the Director, in the form and within the time determined by the Director, any information in respect of—

- (a) any clinical waste produced or caused to be produced by the person or in the person's possession or custody;
- (b) any clinical waste consigned by the person to a licensed waste collector or authorized waste collector;
- (c) any clinical waste delivered by the person, who is a healthcare professional, to a reception point or collection point; or
- (d) any clinical waste delivered by a healthcare professional, in his or her capacity as an employee of the person, to a reception point or collection point.

(2) The Director may require a person to whom this subsection applies to furnish to the Director, in the form and within the time determined by the Director, any information in respect of any clinical waste collected, removed, delivered or transferred by the person.

(3) Subsection (2) applies to a person who is or was—

(a) a licensed waste collector;

(b) a person authorized under section 9 to use any land or premises as an on-site collection point; or

(c) an authorized waste collector.

(4) The Director may require a person to whom this subsection applies to furnish to the Director, in the form and within the time determined by the Director, any information in respect of any clinical waste delivered to a reception point.

(5) Subsection (4) applies to—

(a) in relation to a reception point in respect of which a waste disposal licence is or was in force, a person who is or was the holder of the licence;

(b) in relation to a reception point in respect of which an authorization under section 10(3) is or was granted, the person to whom the authorization is or was granted; and

(c) in relation to any reception point, a person who is or was in charge of it.

(6) A person who, without reasonable excuse, fails to comply with a requirement made under subsection (1), (2) or (4) commits an offence and is liable on conviction to a fine at level 6.

14. Offences in relation to incorrect or misleading information

(1) A person who knowingly or recklessly provides incorrect or misleading information in any statement or record made or produced by the person in purported compliance with a requirement under this Regulation commits an offence and is liable on conviction to a fine at level 6.

(2) A person who knowingly or recklessly omits material particulars or information from any statement or record made or produced by the person in purported compliance with a requirement under this Regulation commits an offence and is liable on conviction to a fine at level 6.

15. Exemptions

(1) The Director may, if satisfied that it is reasonable to do so, grant exemptions from this Regulation or any requirement under this Regulation, either of the Director's own volition or on application.

(2) The Director may impose any terms and conditions the Director considers reasonable on an exemption granted under subsection (1).

16. Terms and conditions of licences and authorization not affected

To avoid doubt, the requirements under this Regulation are in addition to, and do not affect, any term or condition of any waste collection licence or waste disposal licence or of any authorization granted under section 9 or 10(1) or (3).

SCHEDULE

[s. 4]

PROVISIONS RELATING TO LABEL ON CLINICAL WASTE CONTAINER**PART 1****DIMENSIONS OF LABEL**

Type of container	Dimensions of label
Sharps container of a capacity of less than 2 litres	not less than 40 mm × 40 mm
Sharps container of a capacity of 2 litres or more	not less than 75 mm × 75 mm
Container other than sharps container	not less than 150 mm × 150 mm

PART 2

SYMBOL IN LABEL

Division 1

Symbol



Division 2

Specifications of the Symbol

1. The colours of the symbol must be as follows:
Border—black
Background—white or primary colour of the container
Words and characters—black
International biohazard sign—black

2. The international biohazard sign appearing in the symbol must have a minimum height as follows:

Type of container	Minimum height
Sharps container of a capacity of less than 2 litres	16 mm
Sharps container of a capacity of 2 litres or more	30 mm
Container other than sharps container	60 mm

3. Each of the English words appearing in the symbol must have a minimum height as follows:

Type of container	Minimum height
Sharps container of a capacity of less than 2 litres	3 mm
Sharps container of a capacity of 2 litres or more	5 mm
Container other than sharps container	10 mm

4. Each of the Chinese characters appearing in the symbol must have a minimum height as follows:

Type of container	Minimum height
Sharps container of a capacity of less than 2 litres	4 mm
Sharps container of a capacity of 2 litres or more	7 mm
Container other than sharps container	15 mm

Manda CHAN
Clerk to the Executive Council

COUNCIL CHAMBER
8 June 2010

Explanatory Note

This Regulation provides for the control and regulation of the disposal and delivery of clinical waste.

2. Section 1 provides for the commencement of the Regulation.
3. Section 2 sets out the definitions necessary for the interpretation of the Regulation.
4. Sections 3 and 4 impose a duty to dispose of clinical waste properly and provide for the means by which clinical waste may be properly disposed of.

5. Section 5 requires a licensed waste collector to deliver the clinical waste that the licensed waste collector has collected to a reception point (as defined in section 2) within 24 hours or, where the Director of Environmental Protection (“the Director”) by a direction requires the licensed waste collector to deliver any clinical waste collected by the licensed waste collector to a specified reception point within a specified period, to deliver the clinical waste to that reception point within that period.
6. Section 6 empowers the Director to require removal of clinical waste.
7. Section 7 requires a person handling clinical waste to take precautions to prevent danger to public health or safety, pollution to the environment and nuisance to the neighbouring area.
8. Section 8 provides for the circumstances under which a waste disposal licence may be granted.
9. Section 9 provides for the authorization for using land or premises used for certain purposes (such as a dental, medical, nursing or veterinary practice) as a collection point.
10. Section 10 provides for the Director’s power to authorize a person to collect or remove clinical waste without a waste collection licence. That section also provides for the Director’s power to authorize a person to use specified land or premises for the disposal of clinical waste without a waste disposal licence.
11. Section 11 provides for the amendment, revocation or imposition of terms or conditions subject to which an authorization is granted under section 9 or 10(1) or (3).
12. Section 12 requires a person to keep records in respect of clinical waste produced or caused to be produced by the person, or in the person’s possession or custody.
13. Section 13 empowers the Director to require persons handling clinical waste to furnish information relating to the clinical waste.
14. Section 14 provides for the offences of furnishing incorrect or misleading information in statement or record made or produced in purported compliance with a requirement under the Regulation.
15. Section 15 empowers the Director to grant exemptions from the Regulation.
16. Section 16 makes it clear that the requirements under the Regulation are in addition to, and do not affect, the terms or conditions of a waste collection licence or waste disposal licence or of an authorization granted under section 9 or 10(1) or (3).